



General Assembly

Forty-ninth Session

84th Meeting

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Official Records

President: Mr. Essy (Côte d'Ivoire)

The meeting was called to order at 3.30 p.m.

Introduction of reports of the Sixth Committee

The President (*interpretation from French*): This afternoon the General Assembly will consider the reports of the Sixth Committee on agenda items 133 to 145, and 157.

I request the Rapporteur of the Sixth Committee to introduce the reports of the Sixth Committee in one intervention.

Mrs. Fernandez de Gurmendi (Argentina), Rapporteur of the Sixth Committee (*interpretation from Spanish*): I have the honour to introduce to the General Assembly the 14 reports of the Sixth Committee on its work on the agenda items allocated to it at this session. The reports are contained in documents A/49/734 to A/49/747.

At the outset, I wish to thank the Sixth Committee for the honour it bestowed on my country, Argentina, and on me by electing me its Rapporteur. I should also like to thank the other members of the Bureau for their assistance — first and foremost the Chairman of the Committee, Ambassador George Lamprey, whom I congratulate on the particularly fruitful session over which he has presided. My thanks also go to the two Vice-Chairmen, Mr. Marek Madej of Poland and Mr. Suresh Chaturvedi of India, the latter also in his capacity as Chairman of the Working Group on the

question of criteria for the granting of observer status in the General Assembly; Ambassador Carlos Calero-Rodrigues of Brazil, Chairman of the Working Group on jurisdictional immunities of States and their property; Mr. Philippe Kirsch of Canada, Chairman of the Working Group on attacks against United Nations and associated personnel; and Mr. Ernst Martens of Germany, Chairman of the Working Group on the United Nations Decade of International Law.

I shall first introduce the report (A/49/734) of the Sixth Committee submitted under agenda item 133, entitled "Observer status of national liberation movements recognized by the Organization of African Unity and/or by the League of Arab States". The draft decision which the Sixth Committee recommends to the General Assembly for adoption under this item is contained in paragraph 8 of the report. Under the terms of the draft decision, the General Assembly would decide to give further consideration to this question at a future session of the General Assembly. The Sixth Committee adopted this draft decision without a vote, and I am confident that the General Assembly will be in a position to do the same.

I now turn to the report of the Sixth Committee in document A/49/735, submitted under agenda item 134, entitled "Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts". The draft resolution which the Sixth Committee recommends to the General Assembly for adoption is reproduced in paragraph 8 of the report.



Under the preambular part of the draft resolution, the General Assembly would, *inter alia*, declare itself convinced of the continuing value of established humanitarian rules relating to armed conflicts and the need to respect and ensure respect for these rules in all circumstances within the scope of relevant international instruments. It would also stress the need for consolidating and implementing the existing body of international humanitarian law and for the universal acceptance of such law.

Under the operative part of the draft resolution, the General Assembly would, *inter alia*, note that, in comparison with the Geneva Conventions of 1949, the number of States parties to the two additional Protocols is still limited. The General Assembly would, accordingly, appeal to all States parties to the Geneva Conventions of 1949 that have not yet done so to consider becoming parties to the additional Protocols at the earliest possible date. It would further call upon all States that are already parties to Protocol I, or those States not parties, on becoming parties to Protocol I, to make the declaration provided for under article 90 of that Protocol.

The Sixth Committee adopted the draft resolution without a vote, and it is my hope that the Assembly will also do so.

Let me now turn to the report of the Sixth Committee contained in document A/49/736, submitted under agenda item 135, entitled "Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives". The draft resolution which the Sixth Committee recommends to the General Assembly for adoption is reproduced in paragraph 9 of the report. I wish to place on record that the delegation of Bulgaria has informed me that it would have wished to be a sponsor of this draft resolution.

Under the preambular part of the draft resolution, the General Assembly would, *inter alia*, express alarm at the repeated acts of violence against diplomatic and consular representatives as well as against representatives and officials of international intergovernmental organizations, and voice concern at the failure to respect the inviolability of diplomatic and consular missions and representatives. The Assembly would also recall that, without prejudice to their privileges and immunities, it is the duty of all persons enjoying such privileges and immunities to respect the laws and regulations of the receiving State.

Under the operative part of the draft resolution, the Assembly would, *inter alia*, urge States to observe, implement and enforce the principles and rules of international law governing diplomatic and consular relations, and to take all necessary or appropriate measures at the national and international levels to prevent any acts of violence against the missions, representatives and officials previously referred to, as well as any abuse of diplomatic or consular privileges and immunities, in particular, serious abuses, including those involving acts of violence. The Assembly would also call upon States to make use of the means for peaceful settlement of disputes in cases of disputes arising in connection with the protection or security of the previously mentioned missions, representatives or officials. It would request all States to report to the Secretary-General cases of violation of the protection or security of missions, representatives or officials, and request the Secretary-General to issue an annual report on the item in accordance with the reporting procedure established by relevant General Assembly resolutions, which should also contain an analytical summary of the reports received from States.

The Sixth Committee adopted the draft resolution without a vote, and I hope that the Assembly will be in a position to do the same.

I now invite the Assembly's attention to the report of the Sixth Committee circulated as document A/49/737, under agenda item 136, entitled "United Nations Decade of International Law". The draft resolution which the Sixth Committee recommends to the General Assembly for adoption is reproduced in paragraph 10 of the report.

Under the preambular part of the draft resolution the General Assembly would, *inter alia*, recall the four main purposes of the Decade. Under the operative part it would, *inter alia*, adopt the programme for the activities to be commenced during the third term — 1995-1996 — of the Decade as an integral part of the draft resolution, to which it is annexed. The Assembly would invite all States and international organizations and institutions referred to in the programme to undertake the relevant activities outlined therein and to provide information in this respect to the Secretary-General for transmission to the General Assembly at its fiftieth session or, at the latest, its fifty-first session.

This information is to be included in the report of the Secretary-General requested by paragraph 5 of the draft resolution. The General Assembly would further

request the Secretary-General to proceed with the organization of the United Nations Congress on Public International Law, to be held from 13 to 17 March 1995, within existing resources and assisted by voluntary contributions, taking into account the guidance provided by the Sixth Committee at the forty-eighth and forty-ninth sessions of the General Assembly. The Assembly would also recognize the relevance of international humanitarian law and, in this connection, would invite all States to disseminate widely the revised guidelines for military manuals and instructions on the protection of the environment in times of armed conflict received from the International Committee of the Red Cross and to give due consideration to the possibility of incorporating them into their military manuals and other instructions addressed to their military personnel. The Assembly would also invite the International Committee of the Red Cross to continue to report on activities undertaken by the Committee and other relevant bodies with regard to the protection of the environment in times of armed conflict, so that the information received might be included in the report to be prepared by the Secretary-General pursuant to paragraph 5.

The Sixth Committee adopted this draft resolution without a vote, and I trust that the Assembly will do likewise.

May I now turn to the report of the Sixth Committee before the Assembly in document A/49/738, submitted under agenda item 137, "Report of the International Law Commission on the work of its forty-sixth session". The three draft resolutions which the Sixth Committee recommends to the General Assembly for adoption are reproduced in paragraph 32 of the report. Under the operative part of draft resolution I, entitled "Report of the International Law Commission on the work of its forty-sixth session", the Assembly would, *inter alia*, express its appreciation to the International Law Commission for the work carried out at its last session, urge the Commission to resume at its forty-seventh session the work on the draft Code of Crimes against the Peace and Security of Mankind and on State responsibility in such a manner that the second reading of the draft Code and the first reading of the articles on State responsibility might be completed before the end of the present term of office of the members of the Commission, and would endorse the Commission's intention to undertake work on the topics "The law and practice relating to reservations to treaties" and "State succession and its impact on nationality of natural and legal persons", on the understanding that the final form to be given to the work on these topics should

be decided after a preliminary study was presented to the General Assembly.

Under the operative part of draft resolution II, entitled "Draft articles on the law of the non-navigational uses of international watercourses", the General Assembly would, *inter alia*, express its appreciation to the International Law Commission for its valuable work on the topic and decide that, at the beginning of its fifty-first session, the Sixth Committee should convene as a working group of the whole, open to States Members of the United Nations or members of specialized agencies, for a period of three weeks from 7 to 25 October 1996 to elaborate a framework convention on the law of the non-navigational uses of international watercourses on the basis of the draft articles adopted by the International Law Commission in the light of the written comments and observations of States as well as views expressed in the debate at the forty-ninth session of the General Assembly. The Assembly would also decide that the working group of the whole should, without prejudice to the rules of procedure of the General Assembly, follow the methods of work and procedures outlined in the annex to the resolution, subject to any modifications which it might deem appropriate. Draft resolution III recommended by the Sixth Committee under item 137 is entitled "Establishment of an international criminal court". In its preamble, the General Assembly would note that the International Law Commission had adopted a draft statute and recommended that an international conference of plenipotentiaries be convened to study it and to conclude a convention on the establishment of an international criminal court. The Assembly would also express its deep appreciation for the offer of the Government of Italy to host a conference on the establishment of an international criminal court. Under the operative part of the draft resolution, the Assembly would, *inter alia*, welcome the report of the International Law Commission, including the recommendations contained therein, and decide to establish an ad hoc committee open to all States Members of the United Nations or of specialized agencies, which would meet from 3 to 13 April 1995 and, if it so decided, from 14 to 25 August 1995. The ad hoc committee would review the major substantive and administrative issues arising out of the draft statute prepared by the International Law Commission and, in the light of that review, consider arrangements for the convening of an international conference of plenipotentiaries to conclude a convention on the establishment of an international criminal court. The Assembly would decide to include in the provisional agenda of its next session an item entitled "Establishment

of an international criminal court", in order to study the report of the Ad Hoc Committee and the written comments submitted by States and to decide on the convening of an international conference of plenipotentiaries to conclude a convention on the establishment of an international court of justice, including on the Conference's timing and duration.

The Sixth Committee adopted all three draft resolutions without a vote and it is my sincere hope that the Assembly will do the same.

The next report of the Sixth Committee concerns agenda item 138, "Report of the United Nations Commission on International Trade Law on the work of its twenty-seventh session". It is contained in document A/49/739. The two draft resolutions which the Sixth Committee recommends to the General Assembly for adoption are reproduced in paragraph 12 of the report. Under the operative part of the draft resolution I, entitled "Model Law on Procurement of Goods, Construction and Services of the United Nations Commission on International Trade Law", the General Assembly would take note with satisfaction of the completion and adoption of the Model Law together with the Guide to Enactment of the Model Law. The Assembly would also recommend that, in view of the desirability of the improvement and uniformity of the laws of procurement, all States give favourable consideration to the Model Law when they enact or revise their procurement laws, and that all efforts be made to ensure that the Model Law together with the Guide became generally known and available. Draft resolution II is entitled "Report of the United Nations Commission on International Trade Law on the work of its twenty-seventh session". The delegations of Bulgaria and Ecuador have informed me that they would have wished to be included among the sponsors of draft resolution A/C.6/49/L.13, which has now become draft resolution II.

Under its operative part, the General Assembly would, *inter alia*, take note with appreciation of the report of the Commission on the work of its recent session and would reaffirm the mandate of the Commission, as the core legal body within the United Nations system in the field of international trade law, to coordinate legal activities in this field in order to avoid duplication of efforts and to promote efficiency, consistency and coherence in the unification and harmonization of international trade law. The Assembly would also reaffirm the importance, in particular for developing countries, of the work of the Commission concerned with training and assistance in the field of international trade law and, in this connection, it would express its appreciation to the Commission for the

organization of seminars in various Member States. It would also appeal to Governments, the relevant United Nations organs, organizations, institutions and individuals to make voluntary contributions to the trust fund established to grant travel assistance to developing countries that are members of the Commission and thereby ensure full participation by all Member States in the seminars of the Commission and its working groups.

Both draft resolutions were adopted in the Sixth Committee without a vote, and I trust that the General Assembly will act likewise.

I turn now to the report of the Sixth Committee before the Assembly in document A/49/740, submitted under agenda item 139, entitled "Report of the Committee on Relations with the Host Country". The Sixth Committee recommends to the General Assembly for adoption the draft resolution contained in paragraph 8 of the report.

Under the operative part of the draft resolution, the General Assembly would, *inter alia*, endorse the recommendations and conclusions of the Committee on Relations with the Host Country and express the hope that the host country will continue to take all measures necessary to prevent any interference with the functioning of the missions, and that problems raised at the meetings of the Committee will continue to be resolved in a spirit of cooperation and in accordance with international law. It would also voice its concern that the amount of financial indebtedness resulting from non-compliance with contractual obligations of certain missions accredited to the United Nations has increased to alarming proportions and express the hope that efforts undertaken by the Committee, in consultation with all concerned, will lead to a solution of this problem. The Assembly would welcome the lifting of travel controls by the host country with regard to certain missions and staff members of the Secretariat of certain nationalities, and express the hope that the remaining travel restrictions will be removed by the host country as soon as possible. It would also welcome the measures taken at the ports of entry by the host country at the request of Member States, as well as the efforts of the Committee to explore the possibilities for the diplomatic community to be provided with more affordable dental and health services.

The draft resolution was adopted by the Sixth Committee without a vote, and I hope that the Assembly will do the same.

I now turn to document A/49/741 and Corr.1 containing the report of the Sixth Committee under agenda item 140, entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization". This year, the Sixth Committee adopted two draft resolutions under this item, which are contained in paragraph 17 of the report.

Under draft resolution I, entitled "Declaration on the Enhancement of Cooperation between the United Nations and Regional Arrangements or Agencies in the Maintenance of International Peace and Security", the General Assembly would approve the Declaration annexed to the draft resolution, and would express its appreciation to the Special Committee for its important contribution to the elaboration of the text of the Declaration. The Declaration, *inter alia*, stresses the role assigned by the United Nations Charter, in particular its Chapter VIII, to regional arrangements or agencies in the settlement of local disputes and in enforcement action under the authority of the Security Council and recognizes the important contribution that such regional arrangements or agencies can make to the maintenance of international peace and security, including, where appropriate, through the peaceful settlement of disputes, preventive diplomacy, peacemaking, peace-keeping and post-conflict peace-building. The Declaration also recalls the various forms which cooperation between regional arrangements or agencies and the United Nations can take including, *inter alia*, the possibility of establishing and training groups of military and civilian observers, fact-finding missions and contingents of peace-keeping forces, for use as appropriate, in coordination with the United Nations and, when necessary, under the authority or with the authorization of the Security Council, in accordance with the Charter.

The Sixth Committee adopted draft resolution I without a vote, and it is my sincere hope that the Assembly will do the same.

Draft resolution II recommended under item 140 is entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization". Under its operative part, the General Assembly would, *inter alia*, decide that the Special Committee will hold its next session from 27 February to 10 March 1995. It would invite the Secretary-General to submit, before the session of the Committee in 1995, a report on the question of the implementation of the provisions of the Charter, including Article 50, related to special economic problems confronting States and arising from the carrying out of sanctions mandated under Chapter

VII of the Charter. The Assembly would also request the Special Committee, in 1995, first, to accord appropriate time for the consideration of all proposals concerning the question of the maintenance of international peace and security; second, to continue its consideration of proposals on the peaceful settlement of disputes between States; third, to consider the question of the deletion of the "enemy-State" clauses of the Charter of the United Nations, contained in Articles 107 and paragraphs 1 and 2 of Article 53, so that the Special Committee may recommend to the General Assembly at its fiftieth session the most appropriate legal action to be taken on this question; and, fourth, to continue the consideration of the question of the enhancement of cooperation between the United Nations and regional arrangements or agencies in the maintenance of international peace and security.

The Sixth Committee recommends draft resolution II to the General Assembly for consideration and adoption.

I turn next to document A/49/742, containing the report of the Sixth Committee under agenda item 141 entitled "Question of responsibility for attacks on United Nations and associated personnel and measures to ensure that those responsible for attacks are brought to justice". The draft resolution recommended to the General Assembly for adoption is contained in paragraph 10 of the report.

Under the operative part of the draft resolution, the General Assembly would, *inter alia*, adopt and open for signature, ratification, acceptance or approval, or for accession, the Convention on the Safety of United Nations and Associated Personnel which is annexed to the draft resolution. The Convention spells out the duty of States Parties to ensure the safety and security of United Nations and associated personnel, as well as the duty to release or return them when captured or detained. It also places States Parties under an obligation to treat as crimes under their national law the intentional commission or attempted commission of, as well as the participation in, a murder, kidnapping or other attack upon the person or liberty of any United Nations or associated personnel, as well as any violent attack upon the official premises, the private accommodation or the means of transportation of any United Nations or associated personnel likely to endanger his or her person or liberty.

The Convention is based on the principle of *aut dedere, aut judicare*, which means that any State party in

whose territory an alleged offender is present is under an obligation either to extradite that person or to submit, without exception whatsoever and without undue delay, the case to its competent authorities for the purpose of prosecution.

As is recalled in its preamble, the draft convention before the Assembly is born of the international community's deep concern over the growing number of deaths and injuries resulting from deliberate attacks against United Nations and associated personnel. It seeks to protect that personnel, whose important contribution to the maintenance of peace and security is recognized, from violence and mistreatment, which are unacceptable. I trust that the Assembly will wish to adopt without a vote an instrument which is one of the main achievements of the Sixth Committee at the current session.

In this connection, I am informed by the Secretariat that delegations wishing to be among the first to sign the Convention will have the opportunity to sign it on 15 December 1994 at 3.30 p.m. in the Conference Room of the Legal Counsel on the 34th floor of the Secretariat building.

I turn now to agenda item 142, entitled "Measures to eliminate international terrorism". The relevant report of the Sixth Committee bears the symbol A/49/743. The draft resolution the Sixth Committee recommends to the General Assembly for adoption is contained in paragraph 10 of the report.

The draft resolution invites the General Assembly to approve the annexed Declaration on Measures to Eliminate International Terrorism, under which the States Members of the United Nations would solemnly reaffirm their unequivocal condemnation of all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomever committed, including those which jeopardize the friendly relations among States and peoples and threaten the territorial integrity and security of States. The Declaration characterizes such acts, methods and practices as a grave violation of the purposes and principles of the United Nations.

It also requires States to fulfil their obligations under the Charter of the United Nations and other provisions of international law with respect to combating international terrorism, and to take measures for the speedy and final elimination of international terrorism. The Declaration further encourages States to enhance their cooperation in the fight against terrorism, to review the scope of existing

international legal provisions with the aim of ensuring that there is a comprehensive legal framework for combating terrorism, and, if they have not yet done so, to consider becoming parties to relevant international instruments. It also calls upon the United Nations system of organizations, and other intergovernmental organizations and relevant bodies, to promote measures to combat and eliminate acts of terrorism and to strengthen their role in this field.

The Sixth Committee adopted the draft resolution without a vote, and I trust that the General Assembly will want to do the same.

The next report of the Sixth Committee I wish to introduce is contained in document A/49/744, submitted under agenda item 143, entitled "Convention on jurisdictional immunities of States and their property". The draft resolution the Sixth Committee recommends to the General Assembly for adoption is contained in paragraph 14 of the report.

Under the draft resolution, the General Assembly, after referring to the work conducted by the Working Group established at its forty-seventh and forty-eighth sessions and in the framework of the consultations held at its forty-ninth session, would accept the recommendation of the International Law Commission that an international conference of plenipotentiaries be convened to consider the Commission's draft articles on jurisdictional immunities of States and their property and to conclude a convention on the subject. The Assembly would also decide to resume consideration at its fifty-second session of the substantive issues involved and to determine at its fifty-second or fifty-third session the arrangements for the conference, due consideration being given to ensuring the widest possible agreement at the conference.

The Sixth Committee adopted this draft resolution without a vote, and I hope that the Assembly will be in a position to act likewise.

I turn now to the report of the Sixth Committee contained in document A/48/745, submitted under agenda item 144, entitled "Request for an advisory opinion from the International Court of Justice". The Sixth Committee recommends to the General Assembly for adoption the draft decision contained in paragraph 6 of the report. Under the terms of this draft decision, the General Assembly would decide to give further consideration to this item at a future session of the General Assembly.

The Sixth Committee adopted this draft decision without a vote, and I trust that the General Assembly will do the same.

May I now call attention to document A/49/746, which contains the report of the Sixth Committee submitted under agenda item 145, entitled "Review of the procedure provided for under article 11 of the statute of the Administrative Tribunal of the United Nations". The draft decision the Sixth Committee recommends to the General Assembly for adoption under this item is reproduced in paragraph 8 of the report. Under the terms of the draft decision, the General Assembly would decide to consider at its fiftieth session the deletion of article 11 of the statute of the Administrative Tribunal of the United Nations and any consequential amendments relating thereto, in the light of the progress made during the forty-ninth session on the reform of the internal system of justice in the United Nations Secretariat.

The Sixth Committee having adopted this draft decision without a vote, the General Assembly will, I hope, find it possible to do the same.

This brings me to the last report of the Sixth Committee for the current session. It is contained in document A/49/747 and concerns item 157, entitled "Question of criteria for the granting of observer status in the General Assembly". On the recommendation of the Working Group which was entrusted with the task of examining this question, the Sixth Committee adopted the draft decision contained in paragraph 8 of the report. Under the draft decision, the General Assembly would take note of the oral report presented at the 40th meeting of the Sixth Committee by the Chairman of the Working Group and decide that the granting of observer status in the General Assembly should in the future be confined to States and to those intergovernmental organizations whose activities cover matters of interest to the Assembly.

I trust that the Assembly, like the Sixth Committee, will adopt this draft decision without a vote.

That concludes my presentation of the reports of the Sixth Committee. I may have unduly taxed the patience of the Assembly, but I hope that delegations will agree that the work and the achievements of the Sixth Committee at this session deserved an item-by-item presentation, no matter how sketchy.

I would like to take this opportunity to address a special word of thanks to the members of the Secretariat

for their help and cooperation. I would like in particular to thank the Legal Counsel, Mr. Hans Corell, and to express my deepest gratitude to the Secretary of the Committee, Ms. Jacqueline Dauchy, as well as to the two Deputy Secretaries, Mr. Andronico O. Adede and Mr. Manuel Rama-Montaldo, and to all the staff of the Codification Division, who provided dedicated service to the Committee. My thanks go also to all the interpreters, translators, conference officers and documents officers for their contribution to the smooth conduct of the work of the Committee.

The President (*interpretation from French*): If there is no proposal under rule 66 of the rules of procedure, I shall take it that the General Assembly decides not to discuss the reports of the Sixth Committee which are before the Assembly today.

It was so decided.

The President (*interpretation from French*): Statements will therefore be limited to explanations of vote.

The positions of delegations regarding the recommendations of the Sixth Committee have been made clear in the Committee and are reflected in the relevant official records.

May I remind members that under paragraph 7 of decision 34/401, the General Assembly agreed that

"When the same draft resolution is considered in a Main Committee and in plenary meeting, a delegation should, as far as possible, explain its vote only once, i.e., either in the Committee or in plenary meeting, unless that delegation's vote in plenary meeting is different from its vote in the Committee."

May I remind delegations that explanations of vote are limited to 10 minutes and should be made by delegations from their seats.

Before we begin to take action on the recommendations contained in the reports of the Sixth Committee, I should like to advise representatives that we shall proceed to take decisions in the same manner as in the Sixth Committee, except in those cases where delegations have already notified the Secretariat that they wish to do otherwise. That means that where recorded votes were taken we will do the same. I would also hope

that we may proceed to adopt without a vote those recommendations that were adopted without a vote in the Sixth Committee.

Agenda item 133

Observer status of national liberation movements recognized by the Organization of African Unity and/or by the League of Arab States: report of the Sixth Committee (A/49/734)

The President (interpretation from French): The Assembly will now take a decision on the draft decision recommended by the Sixth Committee in paragraph 8 of its report.

The draft decision was adopted by the Sixth Committee without a vote. May I consider that the General Assembly wishes to do the same?

The draft decision was adopted.

The President (interpretation from French): May I take it that it is the wish of the General Assembly to conclude its consideration of agenda item 133?

It was so decided.

Agenda item 134

Status of the Protocols Additional to the Geneva Conventions of 1949 and relating to the protection of victims of armed conflicts: report of the Sixth Committee (A/49/735)

The President (interpretation from French): The Assembly will now take a decision on the draft resolution recommended by the Sixth Committee in paragraph 8 of its report.

The draft resolution was adopted by the Sixth Committee without a vote. May I consider that the Assembly wishes to do likewise?

The draft resolution was adopted (resolution 49/48).

The President (interpretation from French): May I take it that it is the wish of the General Assembly to conclude its consideration of agenda item 134?

It was so decided.

Agenda item 135

Consideration of effective measures to enhance the protection, security and safety of diplomatic and consular missions and representatives: report of the Sixth Committee (A/49/736)

The President (interpretation from French): The Assembly will now take a decision on the recommendation of the Sixth Committee in paragraph 9 of its report.

The draft resolution was adopted by the Sixth Committee without a vote. May I consider that the Assembly wishes to do the same?

The draft resolution was adopted (resolution 49/49).

The President (interpretation from French): May I take it that it is the wish of the General Assembly to conclude its consideration of agenda item 135?

It was so decided.

Agenda item 136

United Nations Decade of International Law: report of the Sixth Committee (A/49/737)

The President (interpretation from French): The Assembly will now take a decision on the draft resolution recommended by the Sixth Committee in paragraph 10 of its report.

The draft resolution was adopted by the Sixth Committee without a vote. May I consider that the Assembly wishes to do the same?

The draft resolution was adopted (resolution 49/50).

The President (interpretation from French): May I take it that it is the wish of the General Assembly to conclude its consideration of agenda item 136?

It was so decided.

Agenda item 137

Report of the International Law Commission on the work of its forty-sixth session: report of the Sixth Committee (A/49/738)

The President (*interpretation from French*): I now call on the representative of Sudan, who wishes to speak in explanation of vote before the voting.

Mr. Yousif (Sudan): The delegation of Sudan requests a recorded vote on draft resolution II, entitled "Draft articles on the law of the non-navigational uses of international watercourses", contained in paragraph 32 of the report of the Sixth Committee (A/49/738).

Members may recall that my delegation stated before the Sixth Committee that it had difficulty in accepting the penultimate preambular paragraph of the draft resolution, then contained in document A/C.6/49/L.27/Rev.1. The reasons which were stated in the Committee and for which we request a recorded vote on the recommendation of the Sixth Committee are the following.

First, the penultimate preambular paragraph pre-empts the work of the working group yet to be convened, at the beginning of the fifty-first session of the General Assembly, pursuant to paragraph 3 of the draft resolution. We cannot fetter the working group with such phrases in the penultimate preambular paragraph as "which should not be affected by the adoption of a new international instrument". Since the International Law Commission has completed its work on the draft articles, this paragraph is no longer relevant, especially in a procedural General Assembly resolution.

Secondly, the draft articles on the law of the non-navigational uses of international watercourses are considered to be an important contribution in the field of the uses of international watercourses. We cannot accept the establishment in the draft resolution of a working group for the elaboration of a framework convention on the matter — wording which, if the draft became a General Assembly resolution, would prejudice the framework convention before it had been elaborated. States which have difficulty with a convention yet to be elaborated may resort to the recognized practice of reserving their rights, or opt not to be parties to the convention, but may not obstruct the progressive development of international law in such a vital area.

The delegation of the Sudan will abstain in the voting on draft resolution II, recommended by the Sixth Committee in its report (A/49/738), and hopes that delegations will express their concern at the irrelevance of the penultimate preambular paragraph of the draft resolution.

Furthermore, the delegation of the Sudan recognizes the importance of the existence of bilateral or multilateral agreements governing the non-navigational uses of international watercourses. However, mentioning such agreements in the present text is irrelevant to the purposes of the present draft resolution and fetters the discretion, innovation and creativity of the work of the Working Group of the Whole envisaged in the draft. The general purpose should be the progressive enhancement and development of international relations through the intended convention, which should offer new modalities and guiding principles conducive to the protection and maintenance of the interests of future generations.

Finally, my delegation requests the Secretariat to reflect this position of the delegation of the Sudan in the records of the forty-ninth session of the General Assembly.

The President (*interpretation from French*): The Assembly will now take a decision on the three draft resolutions recommended by the Sixth Committee in paragraph 32 of its report (A/49/738).

The Assembly will turn first to draft resolution I, entitled "Report of the International Law Commission on the work of its forty-sixth session".

I call on the representative of the Secretariat.

Mr. Perfiliev (Director, General Assembly Affairs Division): Should the General Assembly adopt draft resolution I, it would, under operative paragraph 11, *inter alia*, express the wish that seminars continue to be held in conjunction with the sessions of the International Law Commission, and would request the Secretary-General to provide the seminars, from within existing resources, with adequate services, including interpretation, as required.

Accordingly, it is anticipated that the international law seminar would be held in conjunction with the annual session of the International Law Commission in Geneva over a period of three weeks, with one meeting a day and with interpretation into English, French and Spanish. No documentation would be required.

The extent to which the Organization's permanent capacity would need to be supplemented by temporary assistance resources can be determined only in the light of the calendar of conferences for 1994-1995. However, provisions are made under section 25 of the proposed

programme budget for 1994-1995, not only for meetings programmed at the time of budget preparation, but also for meetings that would be authorized subsequently, provided that the number and the distribution of meetings and conferences are consistent with the pattern of meetings in past years.

Consequently, should the General Assembly adopt draft resolution I, contained in paragraph 32 of document A/49/738, no additional appropriation would be required under section 25 of the programme budget for the biennium 1994-1995.

The President (*interpretation from French*): Draft resolution I was adopted by the Sixth Committee without a vote. May I consider that the Assembly wishes to do the same?

Draft resolution I was adopted (resolution 49/51).

The President (*interpretation from French*): The Assembly will now turn to draft resolution II, entitled "Draft articles on the law of the non-navigational uses of international watercourses".

A recorded vote has been requested.

A recorded vote was taken.

In favour:

Albania, Algeria, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Bolivia, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Cambodia, Cameroon, Canada, Central African Republic, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Dominica, Ecuador, Egypt, El Salvador, Ethiopia, Fiji, Finland, France, Gabon, Georgia, Germany, Ghana, Greece, Guatemala, Guinea, Guyana, Haiti, Honduras, Hungary, Iceland, Indonesia, Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Lao People's Democratic Republic, Latvia, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Philippines,

Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Saudi Arabia, Senegal, Sierra Leone, Singapore, Slovakia, Slovenia, Solomon Islands, South Africa, Spain, Sri Lanka, Suriname, Sweden, Syrian Arab Republic, Tajikistan, Thailand, The Former Yugoslav Republic of Macedonia, Togo, Trinidad and Tobago, Turkey, Turkmenistan, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe

Against:

None

Abstaining:

Benin, India, Iran (Islamic Republic of), Lesotho, Niger, Qatar, Sudan, Swaziland

*Draft resolution II was adopted by 143 votes to none, with 8 abstentions (resolution 49/52).**

The President (*interpretation from French*): Lastly, the Assembly will turn to draft resolution III, entitled "Establishment of an international criminal court".

Draft resolution III was adopted by the Sixth Committee without a vote. May I consider that the Assembly wishes to do the same?

Draft resolution III was adopted (resolution 49/53).

The President (*interpretation from French*): May I take it that it is the wish of the General Assembly to conclude its consideration of agenda item 137?

It was so decided.

Agenda item 138

Report of the United Nations Commission on International Trade Law on the work of its twenty-seventh session: report of the Sixth Committee (A/49/739)

The President (*interpretation from French*): The Assembly will now take a decision on the two draft resolutions recommended by the Sixth Committee in paragraph 12 of its report (A/49/739).

Draft resolution I is entitled "Model Law on Procurement of Goods, Construction and Services of the United Nations Commission on International Trade Law".

Draft resolution I was adopted by the Sixth Committee without a vote. May I take it that the Assembly wishes to do likewise?

Draft resolution I was adopted (resolution 49/54).

The President (*interpretation from French*): Draft resolution II is entitled "Report of the United Nations Commission on International Trade Law on the work of its twenty-seventh session".

The Sixth Committee adopted draft resolution II without a vote. May I take it that the Assembly wishes to do the same?

Draft resolution II was adopted (resolution 49/55).

The President (*interpretation from French*): May I consider that it is the wish of the Assembly to conclude its consideration of agenda item 138?

It was so decided.

Agenda item 139

Report of the Committee on Relations with the Host Country: report of the Sixth Committee (A/49/740)

The President (*interpretation from French*): The Assembly will now take a decision on the draft resolution recommended by the Sixth Committee in paragraph 8 of its report (A/49/740).

The draft resolution was adopted by the Sixth Committee without a vote. May I consider that the Assembly wishes to do the same?

The draft resolution was adopted (resolution 49/56).

The President (*interpretation from French*): May I consider that it is the wish of the Assembly to conclude its consideration of agenda item 139?

It was so decided.

Agenda item 140

Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization: report of the Sixth Committee (A/49/741 and Corr.1)

The President (*interpretation from French*): The Assembly will now take decisions on the two draft resolutions recommended by the Sixth Committee in paragraph 17 of its report (A/49/741).

Draft resolution I is entitled "Declaration on the Enhancement of Cooperation between the United Nations and Regional Arrangements or Agencies in the Maintenance of International Peace and Security".

Draft resolution I was adopted by the Sixth Committee without a vote. May I take it that the Assembly wishes to do the same?

Draft resolution I was adopted (resolution 49/57).

The President (*interpretation from French*): Draft resolution II is entitled "Report of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization".

Separate votes on the last preambular paragraph and on paragraph 4 (c) of draft resolution II have been requested.

I call on the representative of Poland.

Mr. Wlosowicz (Poland): With regard to the request for separate votes, my delegation, in accordance with rule 89 of the rules of procedure, objects to the motion for division in respect of the last preambular paragraph and operative paragraph 4 (c) of draft resolution II contained in the report of the Sixth Committee (A/49/741). As a consequence of this objection the motion for division should be voted upon.

In connection with the motion, my delegation would like to repeat what it stated with regard to this matter at the Sixth Committee on 25 November, when action was taken on an identical motion.

The entire text of draft resolution II recommended by the Sixth Committee in its report (A/49/741), which is before the Assembly, was finally agreed upon at

consultations held on 17 November and chaired by Egypt. That meeting was open to all interested delegations.

My delegation would also like to point out that during the course of the lengthy consultations and negotiations that it undertook in the Sixth Committee on the draft resolution sponsored by Poland and, later, by 44 other countries — draft resolution A/C.6/49/L.3, which is contained in paragraph 9 of the Committee's report — no delegation raised any difficulties or reservations concerning any particular paragraph of the draft resolution between 13 November, when it was circulated, and 18 November, when it was withdrawn.

It is understood by my delegation and by a large number of the other sponsors of draft resolution A/C.6/49/L.3 that basic and greatly modified parts of the draft, as incorporated into the main draft resolution on the report of the Charter Committee, still constitute an essential and integral part of the text of the main draft resolution — namely, draft resolution II — contained in the Sixth Committee's report.

That main draft resolution on the report of the Charter Committee was prepared as a result of broad consultations. I should emphasize that it was adopted by the Sixth Committee on 25 November. It received the overwhelming support of 117 States, and there was only one abstention.

As I have mentioned before, the modified text of the Polish proposal on the question of "enemy State" clauses was finally agreed upon on 17 November, and no delegation opposed it.

The text of the Polish proposal — I refer to the modified three preambular paragraphs and one operative paragraph — has been incorporated into the main draft resolution, which is draft resolution II contained in document A/49/741, also as a result of a compromise and as part of an entire negotiation deal. That is why my delegation strongly opposes any isolating or separating of the last preambular paragraph and paragraph 4 (c) from the draft resolution.

It is well known to all delegations to the Sixth Committee that it was only because of this compromise that Poland decided to withdraw draft resolution A/C.6/49/L.3 on 18 November.

My delegation strongly believes that the General Assembly, like the Sixth Committee, will take into account

the points and facts concerning this case and will reject the motion for division in respect of draft resolution II.

The President (*interpretation from French*): Objection has been made to the request for division.

Rule 89 says:

"If objection is made to the request for division, the motion for division shall be voted upon. Permission to speak on the motion for division shall be given only to two speakers in favour and two speakers against."

Do any members wish to speak on the request for division?

Ms. Caryanides (Australia): For the reasons very well articulated by the representative of Poland, Australia wishes to oppose the motion for division in respect of this draft resolution.

The President (*interpretation from French*): It appears that no other delegation wishes to speak.

In accordance with rule 89, I shall put to the vote the motion for division.

A recorded vote has been requested.

A recorded vote was taken.

In favour:

Democratic People's Republic of Korea

Against:

Albania, Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Bolivia, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Cambodia, Cameroon, Canada, Central African Republic, Chile, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cyprus, Czech Republic, Denmark, Djibouti, Ecuador, Egypt, El Salvador, Ethiopia, Fiji, Finland, France, Gabon, Georgia, Germany, Ghana, Greece, Guatemala, Guinea, Guyana, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Liechtenstein, Lithuania,

Luxembourg, Madagascar, Malaysia, Maldives, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Mongolia, Morocco, Myanmar, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Saudi Arabia, Senegal, Sierra Leone, Singapore, Slovakia, Slovenia, Solomon Islands, South Africa, Spain, Sri Lanka, Suriname, Sweden, Tajikistan, Thailand, The Former Yugoslav Republic of Macedonia, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe

Abstaining:

China, Latvia, Mozambique, Sudan, Swaziland

The motion was rejected by 143 votes to 1, with 5 abstentions.

The President (*interpretation from French*): Since the motion for division was rejected, the Assembly will now take a decision on draft resolution II.

A recorded vote has been requested.

A recorded vote was taken.

In favour:

Albania, Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Benin, Bolivia, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Cambodia, Cameroon, Canada, Central African Republic, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Djibouti, Dominica, Ecuador, Egypt, El Salvador, Ethiopia, Fiji, Finland, France, Gabon, Georgia, Germany, Ghana, Greece, Guatemala, Guinea, Guyana, Haiti, Honduras, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho,

Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malaysia, Maldives, Mali, Malta, Marshall Islands, Mauritania, Mauritius, Mexico, Micronesia (Federated States of), Monaco, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Saudi Arabia, Senegal, Sierra Leone, Singapore, Slovakia, Slovenia, Solomon Islands, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Syrian Arab Republic, Tajikistan, Thailand, The Former Yugoslav Republic of Macedonia, Togo, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Uganda, Ukraine, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Venezuela, Viet Nam, Yemen, Zambia, Zimbabwe

Against:

None

Abstaining:

Democratic People's Republic of Korea

*Draft resolution II was adopted by 155 votes to none, with 1 abstention (resolution 49/58).**

The President (*interpretation from French*): May I take it that it is the wish of the General Assembly to conclude its consideration of agenda item 140?

It was so decided.

Agenda item 141

Question of responsibility for attacks on United Nations and associated personnel and measures to ensure that those responsible for such attacks are brought to justice: report of the Sixth Committee (A/49/742)

The President (*interpretation from French*): The Assembly will now take a decision on the draft resolution recommended by the Sixth Committee in paragraph 10 of its report (A/49/742).

The draft resolution, entitled "Convention on the Safety of United Nations and Associated Personnel", was adopted by the Sixth Committee without a vote.

May I consider that the Assembly wishes to do the same?

The draft resolution was adopted (resolution 49/59).

The President (*interpretation from French*): By paragraph 1 of the resolution just adopted, the General Assembly has adopted and opened for signature and ratification, acceptance or approval, or for accession, the Convention on the Safety of United Nations and Associated Personnel.

In this connection, as mentioned earlier by the Rapporteur of the Sixth Committee, delegations wishing to be among the first to sign the Convention will have the opportunity to do so at 3.30 p.m. on Thursday, 15 December 1994, in the Conference Room of the Legal Counsel.

I shall now call on those representatives who wish to explain their position on the resolution just adopted.

Mr. Yousif (Sudan): The delegation of Sudan joined the consensus on the draft resolution entitled "Convention on the Safety of United Nations and Associated Personnel", and its annex, as contained in section III of the report (A/49/742) of the Sixth Committee, on the following basis.

First, regarding article 1 (b) of the Convention, on the meaning of "associated personnel", we understand that host and/or transit States shall be consulted before the deployment of any such associated personnel to carry out activities in support of the fulfilment of the mandate of a United Nations operation. Secondly, we understand that persons assigned by a Government, intergovernmental organization or humanitarian non-governmental organization or agency under an agreement with the Secretary-General or any United Nations agencies or bodies to carry out activities in support or fulfilment of the mandate of a United Nations operation require the consent of the host and/or transit State.

Thirdly, we understand that appropriate measures to be taken by the Secretary-General pursuant to article 6, paragraph 2, in order to ensure observance of the laws and regulations of the host and/or transit State by the United Nations and associated personnel, include the immediate replacement or removal, at the request of the host and/or

transit State, of any such personnel that do not, in the opinion of the host and/or transit State, comply with the provisions of subparagraphs (a) and/or (b) of paragraph 1 of article 6.

Fourthly, we understand that the provisions in article 9 concerning crimes against United Nations and associated personnel do not require the host and/or transit State to legislate for a separate category of crimes if domestic penal laws already cover such crimes.

My delegation requests the Secretariat to reflect our position in the records of the forty-ninth session of the General Assembly.

Mr. Rosenstock (United States of America): I am pleased to have this opportunity to express my Government's strong support for this important initiative, the new Convention on the Safety of United Nations and Associated Personnel.

The completion of the negotiation of this instrument, together with its adoption today, is one of the key accomplishments of this session of the General Assembly. We are gratified that the international community was able to respond in so short a time to the pressing need for a treaty on this subject. Moreover, we are particularly grateful to the Governments of New Zealand and Ukraine for having presented the original proposals which resulted in this Convention and to the many other States that worked to make this effort a success.

In recent years the United Nations has begun to fulfil its potential for maintaining and restoring peace and security. Peace-keeping under Security Council mandates has brought stability and relief from fear, hunger and suffering to areas throughout the world. Member States have responded to calls by the United Nations to undertake dangerous missions for the benefit of the world community. We pay tribute to those States which have made such contributions and to their citizens who have served and sacrificed.

Peace-keeping, as well as other forms of participation in operations under United Nations mandates, can involve risks to the safety and security of participants. In recent years this has become increasingly the case. The number of casualties among persons participating in such operations has risen with the numbers of operations and persons deployed. Last year alone, over 130 peace-keepers died in Yugoslavia, Somalia, Rwanda, Mozambique, Lebanon, the Iraq-

Kuwait border, El Salvador and Syria. We pay tribute to their sacrifice. We honour their memory. We deplore those who, for whatever reason, attack and injure persons who serve under United Nations mandates. Those attacks are attacks on all of us and cannot be condoned.

The Convention on the Safety of United Nations and Associated Personnel is an important element in protecting United Nations and associated personnel participating in dangerous operations. It fills a gap in international law by extending the principle of universal criminal jurisdiction to attacks on persons participating in, or otherwise within the ambit of, operations involving exceptional risk.

Much time was spent in the negotiations on questions related to the scope of the Convention. In that context, a consensus was ultimately reached that in order for the Convention to be effective broad coverage would be needed. In particular, it was deemed critical to include not just United Nations peace-keepers but all the associated personnel that assist missions under United Nations mandates, including associated military contingents, humanitarian-assistance providers, contractors, experts and others. The definitions of "United Nations operations" and "associated personnel" ensure that this broad coverage is achieved. We are pleased that all recent operations authorized by the Security Council would be covered, including the current operations in Haiti, Rwanda and Bosnia and the prior operation in Somalia. Thus, both United Nations forces and associated forces would be covered, including for example, the multinational force in Haiti and assistance provided by the North Atlantic Treaty Organization (NATO) to the United Nations Protection Force (UNPROFOR) in Bosnia.

It is appropriate that operations other than for the purpose of maintaining or restoring international peace and security can be covered under the Convention where there exists an exceptional risk to the safety of personnel participating in such operations. Although such coverage depends on the Security Council or the General Assembly declaring that such risk exists, we do not believe that the need to obtain a declaration poses a barrier to efficient application of the Convention. We trust that these bodies will not hesitate to make such a declaration where there is any reasonable concern about the degree of risk.

By referring to actions

"in which any of the personnel are engaged as combatants against organized armed forces and to

which the law of international armed conflict applies," (A/49/742, p. 6)

article 2 of this Convention adopts the standard found in common article 2 of the 1949 Geneva Conventions and, in so doing, draws a clear and necessary line between the coverage of this Convention and situations covered by other legal regimes, such as the Geneva Conventions' grave breach provisions. In the latter case — in operations authorized by the Security Council as enforcement actions under Chapter VII of the United Nations Charter, which involve international armed conflicts in which United Nations or associated personnel are engaged as combatants — the laws of war will define the relationships between and among the parties to the conflict. When common article 2 of the Geneva Conventions does not apply, for example in non-combat situations or in internal armed conflicts, the Convention we are adopting today will apply and will fill any gap in the law by criminalizing attacks on United Nations and associated personnel. In sum, the situations not covered by the Convention we are adopting today are covered by common article 2 of the Geneva Conventions, and vice versa. Together, these two bodies of international law will provide seamless protection for all United Nations and associated personnel across the entire spectrum of risk or conflict in the peace-keeping area.

Another important aspect of article 2 in this Convention is that the law of international armed conflict applies, rather than the Convention, if any personnel are engaged as combatants. This formulation makes clear that when any unit participating in an operation becomes engaged in a type of combat which turns off coverage under this Convention, the same is true for all other units. As a result, it is easier for participants in an operation to know under which legal protective regime they fall in a given situation, and to conform their conduct accordingly.

We are pleased that the Convention includes a provision which makes clear not only that are detentions of United Nations and associated personnel a violation of law, but that if such personnel are detained they must be released immediately and pending release be treated in accordance with universally recognized standards of human rights and the principles and spirit of the Geneva Conventions of 1949. This provision addresses the increasing problem of parties to conflicts not only interfering with implementation of United Nations operations but detaining or mistreating persons attempting to carry out United Nations mandates. As the Convention

states, attacks against, or other mistreatment of, personnel who act on behalf of the United Nations are unjustifiable and unacceptable, by whomsoever committed. Recent treatment of members of UNPROFOR in Bosnia demonstrates the need to confirm and implement these principles. We join others in calling for the immediate release of all members of UNPROFOR who have been detained by the Bosnian Serb party.

The negotiation in so short a period of time of this Convention we are adopting here today has been a monumental achievement. We support this Convention and urge Member States to become parties at the earliest possible time.

Mrs. Fernandez de Gurmendi (Argentina) (*interpretation from Spanish*): My delegation wishes to express the Argentine Republic's great satisfaction at the adoption by the General Assembly of the Convention on the Safety of United Nations and Associated Personnel, for which we have worked so intensely. The Convention responds to an urgent need.

At a time when in the Balkans we are witnessing unjustifiable and systematic disregard for the minimum rules of respect for the personnel of the Organization who are so nobly facing the risks inherent in their mission to serve the cause of peace, adoption of the Convention is of very special significance.

The Argentine Republic, which has approximately 1,600 men deployed in nine peace-keeping operations as United Nations or associated personnel, welcomes this important instrument, which will help to ensure the protection of each of them and which, generally speaking, will make it possible better to cope with the great risks inherent in the Organization's more active role in the maintenance of international peace and security.

We hope that the international community, which has responded so swiftly and effectively to the urgent challenge of drafting the Convention, will act with similar dispatch in actively promoting broad participation in it and its speedy implementation.

In this connection, my delegation wishes to state the intention of the Argentine Government to sign the Convention on the day when it is opened for signature: 15 December.

Mr. Wlosowicz (Poland): My delegation would like to express its particular satisfaction that the General

Assembly, on the recommendation of the Sixth Committee, has just adopted without a vote the draft resolution on the question of responsibility for attacks on United Nations and associated personnel and the measures to ensure that those responsible for such attacks are brought to justice, the draft resolution to which the Convention on the Safety of United Nations and Associated Personnel is annexed.

In view of the fact that Poland has made its own contribution to the work of the Ad Hoc Committee as well as the Working Group of the Sixth Committee dealing with this question, by presenting proposals concerning the scope of application and definitions of the Convention, I would like to state that Poland has always supported and still supports giving the Convention the widest objective, as well as subjective, scope of application.

Poland is also of the view that the various proposals submitted by some States at the meeting of the Ad Hoc Committee and the Working Group of the Sixth Committee, aimed at making the applicability of the Convention as wide as possible, have been properly reflected in its articles 1 and 2. Poland is convinced that this constitutes an integral part of the entire consensus.

Mrs. Cueto Milian (Cuba) (*interpretation from Spanish*): The framing of the Convention on the Safety of United Nations and Associated Personnel had an important leitmotif: the urgent need for an appropriate legal framework for guaranteeing the status and security of such personnel as they carry out their duties. Imbued with this legitimate concern, my delegation took part in the drafting of the legal instrument which we have just adopted.

However, the draft convention resulting from that exercise has raised questions about certain crucial aspects of the problem, which give rise to my delegation's strong reservations on the spirit and letter of some of its provisions, *inter alia* those concerning definitions.

In our opinion, under the definition of "United Nations operations", peace-keeping operations authorized by the Security Council with the consent of the States concerned and directed and controlled by the United Nations should be included as a matter of priority. We must not forget that peace-keeping operations are designed to facilitate compliance with the objectives of peace and security provided for in the Charter. However, the Charter itself clearly specifies, in paragraph 7 of

Article 2, that none of the provisions contained in it shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of Member States. It is therefore essential that any provision we may adopt be based ineluctably on the consent of the States involved in a situation requiring the establishment of a United Nations operation.

The Security Council itself, in one of its first presidential statements on this question, adopted at the 2924th meeting, on 30 May 1990, recognized the principle that peace-keeping operations should be undertaken only with the consent of the host countries and the parties involved and urged the host countries and all parties involved to assist and facilitate in every way the successful and safe deployment and functioning of the United Nations peace-keeping operations in order to enable the fulfilment of their mandates, including the early conclusion of status-of-forces agreements with the United Nations and the provision of appropriate infrastructure support.

My delegation recognizes the important contribution of United Nations and associated personnel to the maintenance of international peace and security and deplores any action or deliberate attack against such personnel. Accordingly, we have joined in the consensus adoption of this Convention. However, the lofty goals of the legal instrument we have adopted can be achieved only to the extent that its letter and spirit reflect the delicate balance of interests and principles involved in this issue and that the Convention becomes a relevant, effective and universally accepted instrument, not only for the contributing States but also for the receiving States.

Cuba's signing and ratification of this Convention will depend on the proven effectiveness and universality of this legal instrument and the practical compatibility of the letter and scope of the Convention with fundamental principles of international law, such as those of the sovereignty of States and non-interference in the internal affairs of other States.

Ms. Caryanides (Australia): The Convention contained in report A/49/742 is an important achievement and responds to immediate needs that the international community currently faces. The Convention signals the international community's commitment to take action against deliberate acts of violence which strike against the personnel who are working to support the United Nations efforts to promote a peaceful and secure world.

The Convention constitutes a significant step forward in creating a more effective framework for deterring

attacks against United Nations and associated personnel, thereby increasing the safety of such personnel as well as the effectiveness of the United Nations operations. The Governments of New Zealand and Ukraine, in particular, deserve our appreciation for pursuing this initiative with such determination and intelligence.

My delegation welcomes the wide scope of application reflected in the Convention. We consider that the definitions contained in the Convention should cover the personnel involved in the range of operations and activities that have been authorized by the Security Council and the General Assembly in recent years. The section on definitions is sufficiently broad to extend the application of the Convention to personnel involved in a wide range of humanitarian and other peace-building activities in support of the achievements of the mandate of a United Nations operation. Under these provisions, those carrying much of the burden for humanitarian relief will be accorded protection under the Convention. My delegation would also expect that the Security Council or the General Assembly would make early declarations that there is an exceptional risk to personnel involved in operations in order to accord maximum protection to personnel involved in such operations.

Mr. Takahashi (Japan): The Convention on the Safety of United Nations and Associated Personnel which we have just adopted is an important step towards ensuring the safety of personnel engaged in United Nations and other operations. Japan welcomes the General Assembly's adoption of this Convention.

My delegation has explained its understanding of this Convention in the course of the Sixth Committee's deliberations. On this occasion, I should simply like to reiterate that, in accordance with the relevant provisions contained in it, this Convention is not applicable to situations in which combat action is involved.

It has been the consistent position of Japan that all United Nations operations conducted in dangerous situations, including humanitarian assistance operations, should be covered by this Convention. From that standpoint, my delegation welcomes the statement made by the United States delegation to the effect that the Security Council or the General Assembly will not hesitate to make declarations regarding operations to be covered when there is any reasonable concern about the degree of risk. We believe that such declarations will be made routinely.

Mr. van Bohemen (New Zealand): New Zealand was delighted to join in the consensus adoption of the resolution adopting and opening for signature the Convention on the Safety of United Nations and Associated Personnel. Members of this Assembly will understand the particular satisfaction that New Zealand takes from this event. The adoption of the Convention is the culmination of an initiative we have pursued over the past two years in the Security Council and in the General Assembly to promote more effective measures to protect United Nations and associated personnel. Today's development is especially satisfying when we reflect on how much has been achieved in a short space of time.

In August 1993, in response to the presidential statement of 31 March 1993, adopted under New Zealand's presidency of the Security Council, the Secretary-General produced a comprehensive report on the security of United Nations operations which noted various practical steps that could be taken to enhance the security of United Nations personnel, including the elaboration of a new international convention in this area.

The Security Council took note of that report in its resolution 868 (1993) of 29 September 1993, which set out a number of measures the Council would require in considering the establishment of future United Nations operations so as to ensure the safety of United Nations personnel. That resolution has been reaffirmed when the Council has considered the adoption or renewal of peace-keeping mandates including, most recently, resolution 966 (1994) renewing the mandate of the United Nations operation in Angola, which was adopted yesterday.

At last year's session of the General Assembly, a new item on responsibility for attacks on United Nations and associated personnel was, at New Zealand's initiative, inscribed on the agenda of the Sixth Committee and discussions were commenced in a working group on the basis of draft conventions put forward by New Zealand and Ukraine. The Assembly subsequently decided to establish an ad hoc committee to elaborate a new convention on the safety and security of United Nations and associated personnel.

As we all know, the ad hoc committee and, subsequently, the working group of the Sixth Committee at the current session, were able to make very good progress on the elaboration of the new convention on the basis of a draft proposed jointly by New Zealand and Ukraine. The product of those endeavours is contained in the Convention we have just adopted.

As with all negotiations of this kind, the Convention required compromise on a number of key issues, most of which arose in connection with the definitions in article 1 establishing the categories of operations and personnel covered by the Convention.

Notwithstanding the compromises reflected in those definitions, we are satisfied that the Convention meets the objectives we set ourselves when putting forward this initiative.

First, the Convention focuses on those operations and personnel which statistics show are most at risk: these are the United Nations peace-keeping operations mandated by the Security Council.

Secondly, the Convention's protections are not limited to personnel actually engaged in the operation but extend also to those other personnel, be they from other parts of the United Nations system, personnel provided by Member States, civilian contractors, or personnel deployed by humanitarian non-governmental organizations, who are acting in support of the fulfilment of the mandate of the operation. Experience in Somalia, Bosnia, Cambodia and elsewhere has demonstrated that these auxiliary personnel are just as likely to be targeted by persons seeking to frustrate the achievement of the mission as personnel actually engaged in the operation.

Thirdly, the Convention applies to all United Nations operations mandated by the Security Council, whether under Chapter VI or Chapter VII of the Charter. The Convention acknowledges that the effectiveness and safety of United Nations operations are enhanced when such operations are conducted with the consent and cooperation of the host State. But, reflecting the obligations we have all accepted under the Charter, it recognizes that consent cannot be used to distinguish between the protections afforded to United Nations personnel. Indeed, the Convention would have been of doubtful value had it not extended to those persons who are more likely to be at risk because there is no effective government to extend host State protections.

Fourthly, the Convention also recognizes that personnel participating in operations mandated by organs other than the Security Council can also be at risk. It provides a mechanism for extending the Convention's protections to such personnel by way of a declaration of the Security Council or the General Assembly. While New Zealand would have preferred a more automatic extension of the Convention to such personnel, we

believe that the mechanism of a Council or Assembly declaration is workable. We encourage both organs, in cases of doubt, to err on the side of protection and to be prepared to make preemptive declarations. We also encourage the Secretary-General to be forthright in recommending that the Council or Assembly should make declarations extending the Convention's protections in appropriate cases.

Today's achievement is one in which we can all take satisfaction. We must again pay special tribute to Ambassador Philippe Kirsch, whose role in presiding over the negotiations was instrumental in securing today's result. We also thank all those who participated in the negotiations for the constructive approach they displayed throughout and for their undoubted commitment to achieving an effective outcome as quickly as possible. We consider that the rapid negotiation and adoption of the Convention is convincing evidence of the commitment by Member States to strengthen the legal and practical protections available to United Nations and associated personnel.

We look forward to joining others in signing the Convention when it is open for signature in the afternoon of Thursday, 15 December.

The President (*interpretation from French*): We have heard the last speaker in explanation of position.

May I take it that it is the wish of the General Assembly to conclude its consideration of agenda item 141?

It was so decided.

Agenda Item 142

Measures to eliminate international terrorism: report of the Sixth Committee (A/49/743)

The President (*interpretation from French*): The General Assembly will now take a decision on the draft resolution recommended by the Sixth Committee in paragraph 10 of its report (A/49/743).

The draft resolution was adopted by the Sixth Committee without a vote. May I consider that the Assembly wishes to do the same?

The draft resolution was adopted (resolution 49/60).

The President (*interpretation from French*): I shall now call on representatives who wish to explain their position.

Mr. Odevall (Sweden): In this explanation of position I am speaking on behalf of the Nordic countries — Denmark, Finland, Iceland, Norway and Sweden.

The Nordic countries have joined the consensus on and welcome the adoption of the Declaration on Measures to Eliminate International Terrorism, as an important step in combating international terrorism. It is our hope that the Declaration will make an important contribution to the elimination of terrorism.

However, the assertion that terrorist acts as such constitute human rights violations cannot be supported by the Nordic countries. We are of the opinion that the distinction between acts which are attributable to States, and criminal acts that are not, is an important one. Only acts attributable to States could be categorized as human rights violations. Adhering to the consensus regarding this resolution does not imply that the Nordic countries have changed their stand on principle in this regard.

Mrs. Fernandez de Gurmendi (Argentina) (*interpretation from Spanish*): My delegation wishes to express the satisfaction of the Argentine Government at the adoption by the General Assembly of the Declaration on Measures to Eliminate International Terrorism, which is the firmest and most unequivocal condemnation of international terrorism in all its forms and manifestations ever expressed by the General Assembly.

My country, which was recently the victim of a totally unjustified and cruel terrorist attack resulting in heavy loss of life, welcomes this resounding response by the international community to such acts which are always criminal no matter what reasons are invoked by some to try to justify them.

The Argentine Republic wishes to take this opportunity to reiterate its firm commitment to exhaust every means at its disposal to combat effectively terrorist acts and to bring those guilty to justice. At the same time, we reaffirm the need to intensify international cooperation to prevent, combat and eliminate such acts — which affect the community of civilized States — on the basis of the purposes and principles of the United Nations Charter and the other rules of international law.

Mr. Hallak (Syrian Arab Republic) (*interpretation from Arabic*): My country has been and continues to be against terrorist acts. Consequently, we support the principle of condemning terrorism. However, Syria maintains its position of supporting peoples exercising their right to self-determination and to resisting foreign occupation, in keeping with the Charter of the United Nations and the relevant United Nations resolutions. Proceeding from our desire not to confuse terrorism and the legitimate struggle against foreign occupation, Syria has called for the convening of an international conference to define terrorism and to draw a distinction between terrorism and the struggles of peoples for self-determination. My delegation supports resolution A/C.6/49/L.17 and the Declaration attached thereto to the extent that they are not opposed to the principles we have just stated.

Mr. Martens (Germany): I am speaking on behalf of the European Union and an acceding State, Austria.

The European Union welcomes the adoption of the Declaration on Measures to Eliminate International Terrorism as an important step in our efforts to combat international terrorism. We hope that the Declaration will make an important contribution to the elimination of such terrorism.

Once again, we unequivocally condemn, as criminal and unjustifiable, all acts, methods and practices of terrorism, wherever and by whomever perpetrated. We are permanently committed to combating all forms of terrorism and are willing to cooperate to this end with all States on a bilateral, regional and multilateral basis. We profoundly deplore the loss of human life which results from acts of terrorism. We feel deep sympathy for those affected by terrorism and will support any effort that is in conformity with international law and international standards of human rights to fight against the common threat that terrorism constitutes.

Allow me to make it clear that support by the European Union for the consensus reached in the Sixth Committee in no way implies acceptance of the assertion that terrorist acts as such constitute violations of human rights. A careful distinction must be made between acts attributable to States and criminal acts which are not. Only acts attributable to States should be considered as violations of conventions on human rights.

With that understanding, the European Union and Austria strongly support the Declaration on Measures to Eliminate International Terrorism.

Mr. Strauss (Canada): Canada has joined consensus because it considers that the Declaration is a strong statement against terrorism. Canada, however, associates itself with other States that have expressed regret with respect to the formulation of the fifth preambular paragraph. Canada also regrets that this subject has been raised in two main committees. In our view, that serves only to reduce the efficiency of the United Nations. It does nothing to enhance consideration of these substantive issues.

Mr. Hamai (Algeria) (*interpretation from French*): The delegation of Algeria wishes to explain its position on the Declaration on Measures to Eliminate International Terrorism.

The Declaration that the General Assembly has just adopted by consensus and in whose drafting many delegations, including my own, participated actively and constructively, is a compromise text which could have been more concrete.

My delegation, for example, regrets the lack in the Declaration of any specific provision for what should be, as we see it, a priority focus for the action of the United Nations and its Member States in the effort effectively and efficiently to combat the scourge of terrorism — that is, to give the international community as a matter of urgency a framework convention for the prevention and elimination of terrorism. Such a convention is sorely lacking in today's world; its existence would considerably strengthen the effectiveness of the struggle against terrorism. However, in a constructive spirit and taking into account the concerns of other delegations, we have displayed great flexibility on this point and on a number of others on which I will not dwell here.

Nevertheless, the Declaration is a balanced compromise text that takes into account the concerns that were most generally expressed and supported in the consultations that led to the adoption of this text. Hence, my delegation decided to support it as a consensus text marking an important phase in the consideration of this question by the United Nations. This is the first significant contribution on an item which has been on its agenda for 22 years. In this context, the Declaration represents a first, promising phase in the development of collective, concerted action focusing on the operational

aspects and the adoption of practical measures to eliminate acts of terrorism.

My delegation also welcomes the Declaration's condemnation of terrorist acts as violations of human rights, in accordance with the relevant international instruments, including the Universal Declaration of Human Rights and the two International Covenants of 1966. Indeed, article 30 of the Declaration and the common article 5 of the two Covenants impose the obligation on, of course, States but also, explicitly, individuals and groups to respect human rights, and they prohibit any act directed towards the violation of human rights.

Lastly, my delegation hopes that, as requested in the resolution and the Declaration, all States will implement these two texts in good faith and effectively. We hope that, to this end, the next report of the Secretary-General will give us an appropriate and exhaustive basis for continuing our consideration of this question in a practical and effective way, as envisaged in the resolution and the Declaration, in order to ensure that international cooperation takes a decisive step forward in the struggle to eliminate terrorism.

The President (*interpretation from French*): May I take it that it is the wish of the General Assembly to conclude its consideration of agenda item 142?

It was so decided.

Agenda item 143

Convention on jurisdictional immunities of States and their property: report of the Sixth Committee (A/49/744)

The President (*interpretation from French*): The General Assembly will now take a decision on the draft resolution recommended by the Sixth Committee in paragraph 14 of its report (A/49/744).

The draft resolution was adopted by the Sixth Committee without a vote. May I consider that the Assembly too wishes to adopt the draft resolution?

The draft resolution was adopted (resolution 49/61).

The President: I call on the representative of the United Kingdom, who wishes to explain the position of her delegation on the draft resolution just adopted.

Ms. Wilmshurst (United Kingdom): My delegation joined in the consensus on the adoption of the draft resolution recommended in document A/49/744. It became clear during the debate in the Sixth Committee on this item that there remain outstanding major issues of substance arising from the draft articles prepared by the International Law Commission, on which there is not yet sufficient agreement to justify the convening of an international conference at this time. Paragraph 3 of the resolution just adopted makes clear that when the Assembly returns to this item at its fifty-second session it will have to consider the prospects for achievement of wide agreement at a conference. If those prospects are not good because there is still insufficient agreement on the major issues of substance, the Assembly will have to decide, in the light of all of the prevailing circumstances, whether or not there should be a conference to conclude a convention on this subject.

The President (*interpretation from French*): May I take it that it is the wish of the General Assembly to conclude its consideration of agenda item 143?

It was so decided.

Agenda item 144

Request for an advisory opinion from the International Court of Justice: report of the Sixth Committee (A/49/745)

The President (*interpretation from French*): The Assembly will now take a decision on the draft decision recommended by the Sixth Committee in paragraph 6 of its report (A/49/745).

The draft decision was adopted by the Sixth Committee without a vote. May I consider that the Assembly wishes to do the same?

The draft decision was adopted.

The President (*interpretation from French*): May I take it that it is the wish of the General Assembly to conclude its consideration of agenda item 144?

It was so decided.

Agenda item 145

Review of the procedure provided for under article 11 of the statute of the Administrative Tribunal of the United Nations: report of the Sixth Committee (A/49/746)

The President (*interpretation from French*): The Assembly will now take a decision on the draft decision recommended by the Sixth Committee in paragraph 8 of its report (A/49/746).

The Sixth Committee adopted the draft decision without a vote. May I consider that the Assembly wishes to do the same?

The draft decision was adopted.

The President (*interpretation from French*): May I take it that it is the wish of the General Assembly to conclude its consideration of agenda item 145?

It was so decided.

Agenda item 157

Question of criteria for the granting of observer status in the General Assembly: report of the Sixth Committee (A/49/747)

The President (*interpretation from French*): The Assembly will now take a decision on the draft decision recommended by the Sixth Committee in paragraph 8 of its report (A/49/747).

The Sixth Committee adopted the draft decision without a vote. May I consider that the General Assembly wishes to do the same?

The draft decision was adopted.

The President (*interpretation from French*): May I take it that it is the wish of the General Assembly to conclude its consideration of agenda item 157?

It was so decided.

The President (*interpretation from French*): The General Assembly has thus concluded its consideration of all the reports of the Sixth Committee.

The meeting rose at 5.35 p.m.

Annex

Changes in recorded and/or roll-call votes

Subsequent to the voting, the delegation of Bhutan advised the Secretariat that it had intended to vote in favour of all of the draft resolutions recommended by the Sixth Committee.

Resolution 49/52

Subsequent to the voting, the delegation of Qatar advised the Secretariat that it had intended to vote in favour.

Resolution 49/58

Subsequent to the voting, the delegation of Cape Verde advised the Secretariat that it had intended to vote in favour of the draft resolution; the delegation of Latvia had intended to vote against the motion for division.